

CALENDAR ITEM

C13

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04/05/16

PRC 5527.1

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M. Schroeder

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Claburn Niven Jones and Joan Leverington Jones as Trustees of the Jones Family Trust dated March 13, 2007; Nena Jones Brogan, Trustee, of the Brogan Living Trust dated November 1, 1984; Edgar Mark Jones, Trustee, of the Jones Family 2002 Trust dated May 8, 2002; Claburn Jones and Dougal Jones, Co-Trustees of the Linda Jones Falk Bypass Trust U/A/D March 28, 2000

APPLICANT:

Claburn Niven Jones as Trustee of the Jones Family Trust dated March 13, 2007, as amended; Nena Jones Brogan, Trustee, of the Brogan Living Trust dated November 1, 1984; Edgar Mark Jones, Trustee, of the Jones Family 2002 Trust dated May 8, 2002; Jones GST – Exempt Family Trust FBO Edgar Mark Jones, Edgar Mark Jones and First Republic Trust Company, Cotrustees; Jones GST – Exempt Family Trust FBO Nena Jones Brogan, Nena Jones Brogan and First Republic Trust Company, Cotrustees; and Jones GST – Exempt Family Trust FBO Claburn Niven Jones, Claburn Niven Jones and First Republic Trust Company, Cotrustees

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 2510 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and one mooring buoy.

LEASE TERM:

10 years, beginning April 5, 2016.

CONSIDERATION:

\$764 per year, with an annual Consumer Price Index adjustment.

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SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on a flat and sandy part of the shore. The upland houses are on large lots. The topography and upland structures provide sufficient space for both the pier and other trust activities. Construction of the pier allows the public to walk or navigate under or around the pier. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine, will not substantially interfere with the public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. On June 24, 2008, the Commission authorized a 10-year Recreational Pier Lease to Claburn Niven Jones and Joan Leverington Jones as Trustees of the Jones Family Trust dated March 13, 2007; Nena Jones Brogan, Trustee, of the Brogan Living Trust dated November 1, 1984; Edgar Mark Jones, Trustee, of the Jones Family 2002 Trust dated May 8, 2002; Claburn Jones and Dougal Jones, Co-Trustees of the Linda Jones Falk Bypass Trust U/A/D March 28, 2000. Since issuance of the lease, staff has discovered the interest in the upland granted to Claburn Niven Jones and Joan Leverington Jones as Trustees of the Jones Family Trust dated March 13, 2007 was incorrectly recorded. The lease should have been issued to Claburn Niven Jones as Trustee of the Jones Family Trust dated March 13, 2007, as amended. That lease will expire on April 11, 2018.
3. The portion of the interest in the upland held by the Linda Jones Falk Bypass Trust U/A/D March 28, 2000, has since transferred to Jones GST – Exempt Family Trust FBO Edgar Mark Jones, Edgar Mark Jones and First Republic Trust Company, Cotrustees; Jones GST – Exempt Family Trust FBO Nena Jones Brogan, Nena Jones Brogan and First Republic Trust Company, Cotrustees; and Jones GST – Exempt Family Trust FBO Claburn Niven Jones, Claburn Niven Jones and First Republic Trust Company, Cotrustees. The Applicant is now applying for a General Lease – Recreational Use. The Lessee has requested termination of the lease.
4. On October 6, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the construction of the pier and placement of one mooring buoy adjacent to the upland parcel. The TRPA permit is currently valid.
5. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
6. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

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7. The staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

1. Authorize termination, effective April 4, 2016, of Lease No. PRC 5527.9, a Recreational Pier Lease, issued to Claburn Niven Jones and Joan Leverington Jones as Trustees of the Jones Family Trust dated March 13, 2007; Nena Jones Brogan, Trustee, of the Brogan Living Trust dated November 1, 1984; Edgar Mark Jones, Trustee, of the Jones Family 2002 Trust dated May 8, 2002; Claburn Jones and Dougal Jones, Co-Trustees of the Linda Jones Falk Bypass Trust U/A/D March 28, 2000.

2. Authorize issuance of a General Lease – Recreational Use to Claburn Niven Jones as Trustee of the Jones Family Trust dated March 13, 2007, as amended; Nena Jones Brogan, Trustee, of the Brogan Living Trust dated November 1, 1984; Edgar Mark Jones, Trustee, of the Jones Family 2002 Trust dated May 8, 2002; Jones GST – Exempt Family Trust FBO Edgar Mark Jones, Edgar Mark Jones and First Republic Trust Company, Cotrustees; Jones GST – Exempt Family Trust FBO Nena Jones Brogan, Nena Jones Brogan and First Republic Trust Company, Cotrustees; and Jones GST – Exempt Family Trust FBO Claburn Niven Jones, Claburn Niven Jones and First Republic Trust Company, Cotrustees, beginning April 5, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and one mooring buoy as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$764, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5527.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 24, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, swim stairs and boat lift lying adjacent to that parcel described in Exhibit “A” of that Grant Deed recorded January 26, 2015 in Document Number 2015-0005033 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

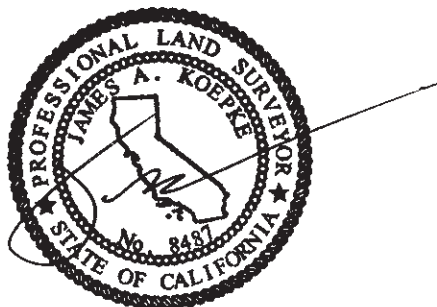
PARCEL 2 – BUOY

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to that parcel as described in said Grant Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 21, 2015 by the California State Lands Commission Boundary Unit.



APN 084-121-009

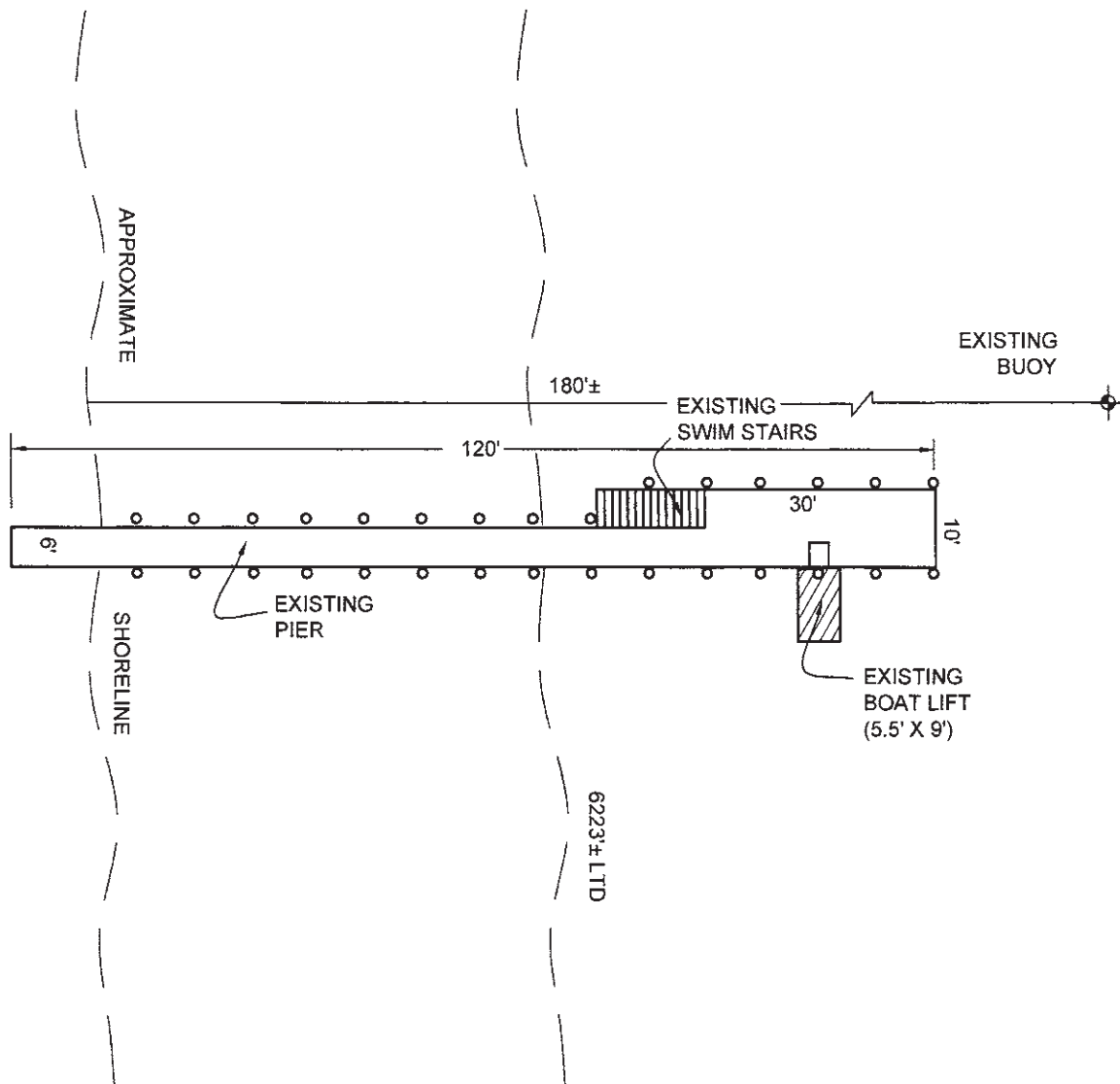


EXHIBIT A

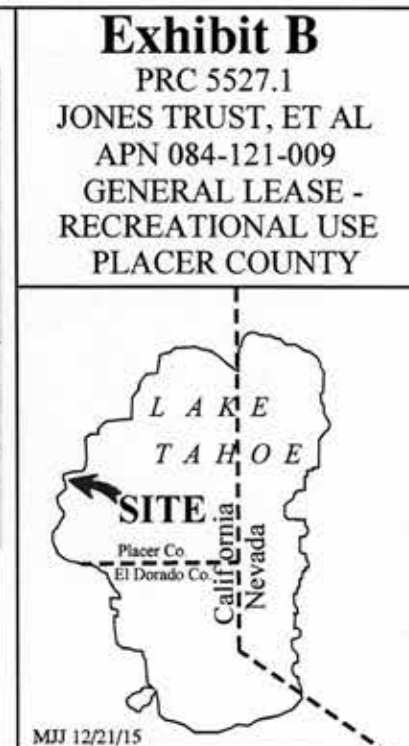
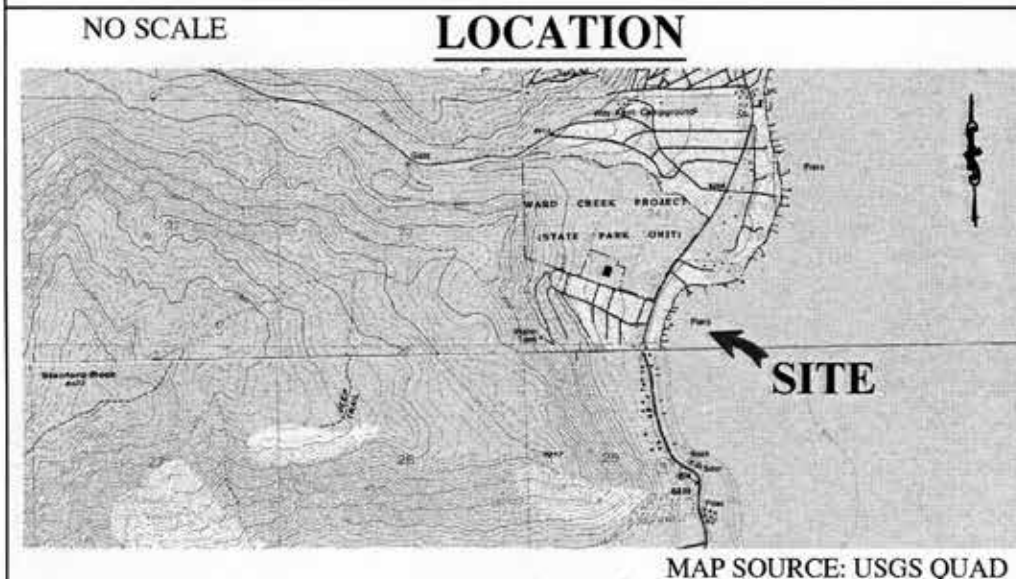
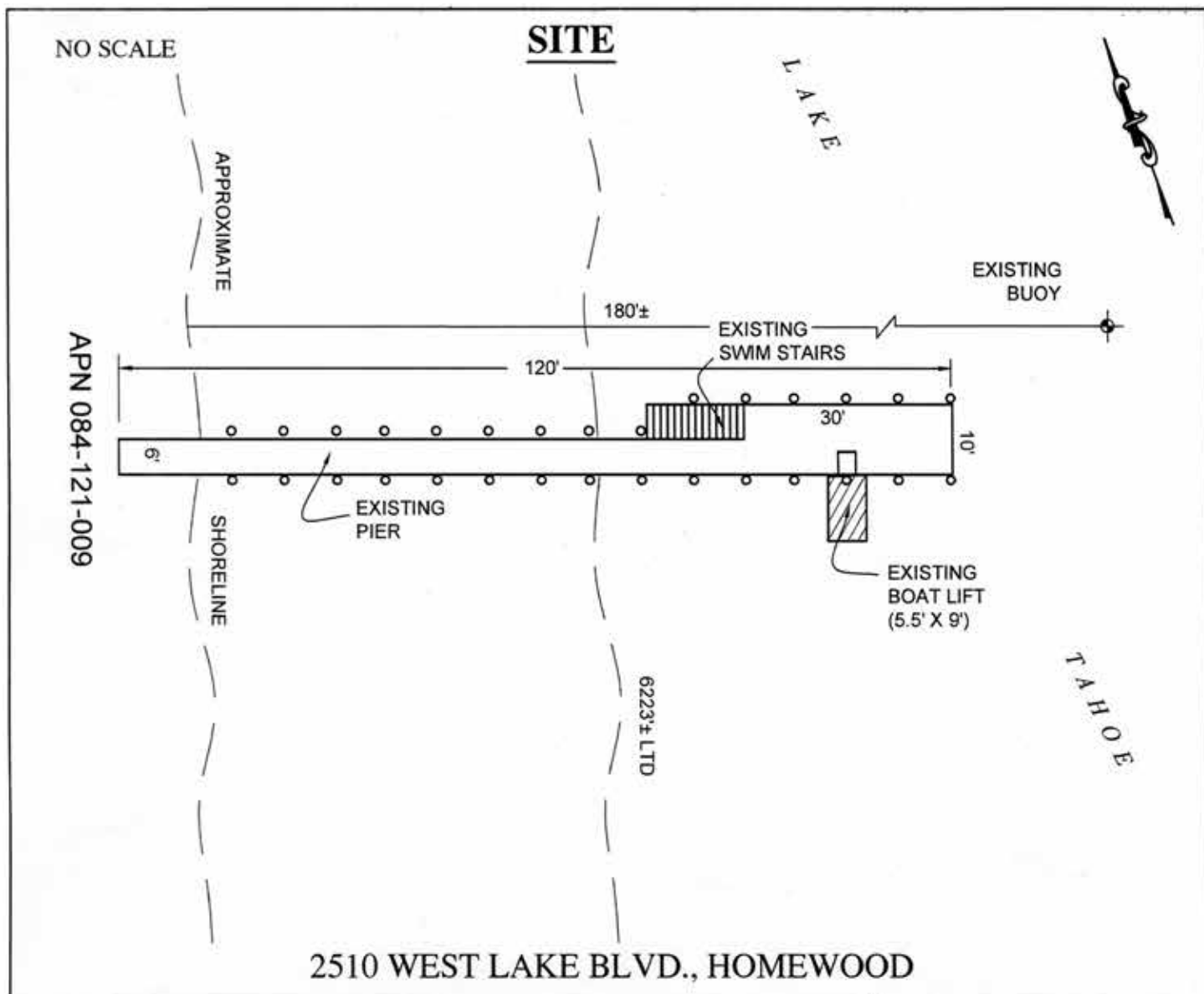
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LAND DESCRIPTION PLAT
PRC 5527.1, JONES TRUST, ET AL
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION





This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.